

**MINUTES
BOARD OF APPEALS
Monday, January 21, 2013
City Hall, Room 400
5:30 p.m.**

MEMBERS PRESENT: D. Carlson, B. Maccaux, J. Bunker

ALTERNATE MEMBER PRESENT: R. Marx

MEMBER EXCUSED: J. Reck

OTHERS PRESENT: JoAnn Carpiaux, Sharon Merryfield, Mike Cropsey, Jared Schmidt

D. Carlson called the meeting to order and asked the Board if anyone needed to abstain from voting; all replied no. He asked if any members had gone to the properties or talked to anyone regarding the requests; all replied no.

APPROVAL OF MINUTES:

Approval of the December 17, 2012 minutes of the Board of Appeals

A motion was made by J. Bunker and seconded by B. Maccaux to approve the December 17, 2012 minutes of the Board of Appeals. Motion carried.

Old Business:

1. Sharon Merryfield, property owner, proposes to retain an existing nonconforming driveway in a Low Density Residential (R1) District at 834 Marquette Avenue. The applicant requests to deviate from the following requirement, Section 13-1709(b)(1) driveway setback, 2.5 feet.

S. Merryfield stated at the last meeting the Board asked her and/or her neighbor to get a survey done of the property. She stated both she and the Carpiaux's got three estimates for a survey. Prior to actually hiring one, she stated the Carpiaux's approached her and wanted to talk about the differences that they had about the concrete. She stated the four of them looked at their concerns and came to an agreement that if the Merryfield's removed the piece of concrete in question, which is marked by the flag, that they would be happy with that.

D. Carlson asked if the flag was placed by a surveyor and S. Merryfield stated no. D. Carlson said his understanding is that the two neighbors came to an agreement that if the concrete is removed to the extent shown on the pictures, everyone will be satisfied. He stated they are present at this meeting to get the Board's approval as this is still a non-conforming use.

J. Bunker felt the Board still does not know where the property line is and if someone sells their house they will be back in front of the Board because no one knows if it is on the neighboring property or not. He stated for right now if they want to agree on it, he could agree with it also. He also stated in the future it might be back in front of the Board.

D. Carlson stated he read over the minutes from the last meeting and felt at least some of the Board members were satisfied that if there was an encroachment the Board would require that

the concrete be removed. At that point, the discussion was how far the concrete would be removed; a few inches or the entire 2 ½ feet which is what the City would be concerned about. At that point, the Board realized they did not know where the line was. The Board decided to hold this matter in abeyance for several meetings while a survey was completed. They don't have a survey and he did not know if they could require them to have one. He asked if the Board was satisfied if the two neighboring property owners are satisfied.

D. Carlson stated his main concern at the last meeting was the encroachment and since the parties seem to have come to a conclusion between themselves, he feels they would not have to go so far as to satisfy the City in this case.

R. Marx asked if both parties feel they are off the line or at the line or is there some sort of compromise.

A motion was made by J. Bunker and seconded by R. Marx to approve this request that the concrete be cut to where it is flagged and that it be done no later than June 1, 2013. Also, when the concrete is cut out, the grass will be repaired at the applicant's expense. Motion carried.

New Business:

2. Jared Schmidt, Robert E. Lee & Associates, on behalf of Mike Cropsey, property owner, proposes to construct two self service storage facilities and reduce the required parking for each unit in a General Industrial (GI) District at 1320 Tomlin Street. The applicant requests to deviate from the following requirement, Section 13-1719 one space per individual storage facility.

J. Schmidt stated M. Cropsey's property sits adjacent to Tomlin Street as well as Rug Road. It is a very narrow, uniquely shaped parcel. The area to the northeast is primarily flood plain and would be nearly impossible to develop. The desire is to have self storage units there. The property is relatively narrow and sits up pretty well for two longer units. From a development standpoint you would want more space but this is what they have. There would be access off Rug Road as well as off Tomlin. J. Schmidt stated everything is in compliance with the City except for the onsite parking. The City states it needs a surface parking stall for every garage door, every unit of this storage building. He wanted to discuss further the fact that there is space on one end that is used for office. There is a bathroom in the rental office and they also provided a couple surface stalls so they would have parking spaces in order to use that as their office space. He stated they lost some spaces for storm water management and they just don't have the ability to provide a surface stall per unit.

M. Cropsey stated there is ample room in the median between the two buildings or the hard space. There is ample room with a 24' plus curb between them if someone were to park in front. He stated you would have to have 50% of the renters present to cause a road block but he has never seen that. Mr. Schmidt showed four examples that he thought fell within the city limits. He stated from his observation, there isn't one that provides for what the code says. He stated the reason for the variance request is because of the uniqueness. He felt it was a good use for this property and it would be a challenge to get anything else there.

The area is zoned Industrial and he felt the use as it sits is appropriate. He stated the end caps will have brick veneer on it so it will be dressed up on the road side.

D. Carlson asked how wide the individual units are. J. Schmidt stated they vary in size, but they are 24' deep.

J. Bunker asked how many doors there were and was told there are 38 units. J. Schmidt stated the north building is all 10'x20' units. The other is a larger multi-door facility which would hold units 16'X24'. On the western half they have 24'X32' which would be the end cap on the north building. Everything is going to be sealed and insulated, etc. The security system alone is approximately \$20,000.

D. Carlson asked P. Neumeyer if there was a traffic issue. P. Neumeyer stated he has not received any comments from the City's Traffic Engineer.

D. Carlson asked P. Neumeyer if he had an opinion on this matter. P. Neumeyer stated it allows for circulation all through this sight and is much smaller than the ones shown but it provides circulation and also designates exact spots for loading and unloading for those units. It is a dedicated space.

D. Carlson stated the applicant has brought forward some evidence of what he offers as similar type calculating facilities. He asked P. Neumeyer if he had any comments on the other facilities.

P. Neumeyer stated three of the four are in Green Bay and the fourth on Military Avenue is in Howard. He stated he is not sure of the age of the three located in Green Bay but they were done probably prior to 2006 when the City had this requirement as part of the Zoning Code Update.

J. Bunker stated he owns a storage unit in Humboldt and they do not have that requirement. He added he has no overnight parking. With the number of units he has, people are coming and going. Some day you might get one person, some day you might get ten and some days you get none. He thought having 39 spots was over kill. It's a rental, these are not for sale; it's not like they are going to park their vehicle every day. He added he would like to see something in the variance that does not allow overnight parking.

D. Carlson stated his first thought on this was absolutely not but read the ordinances and tables and did some calculations. He noted there were several instances where the applicant was required to provide a traffic analysis or space analysis, or some type of usage analysis to offer justification for the number of parking spots that would be provided. He asked P. Neumeyer if he was familiar with anyone every doing that, and what they entailed. He also asked what their objective was.

P. Neumeyer stated he could not recall anything recent but felt the requirement was there because there are some uses that are different than other uses and they require special studies. Typically traffic engineers would be involved in that. He stated Rasmussen College came to mind as one that was required to provide a parking analysis because of the transient nature of people coming and going on their site and because of the size of it.

D. Carlson stated there isn't anything in the ordinance that would give them credit for having two entry ways and P. Neumeyer stated he was not aware of anything. It is probably logical to have both of them but that is not a requirement. If they wanted to create a dead end they could do that but it is beneficial to have two entrances.

D. Carlson stated there is a 24' width between 258' of storage which isn't a lot. If the Board goes by what is in the ordinance, that would create another issue; you have to have access to the parking stalls from an aisle which is also in the front. If we take that to be a one-way aisle, it would be 14' which leaves 10' times 258' which is basically 14 parking stalls. In addition to the four that have been provided, and with his interpretation of the ordinance, they have provided 14 more but you have not provided one for each unit. D. Carlson felt 14 spaces was okay for the number of units.

R. Marx stated he wanted to look at the code again and added he had a huge conflict between what it said and what he feels was common sense. He stated, having rented storage space, he felt if there were 40 spots no one would park in that section anyway, they would drive up in front of their unit. He added that common sense tells him this is not a problem but feels it does not meet what is written in the ordinance.

D. Carlson asked P. Neumeyer what the City's plan was for this area and is the storage buildings consistent with what the City would like to see done there.

P. Neumeyer stated the City does not have any immediate plans but it is consistent with the comprehensive plan and zoning of the area so it is an appropriate use. The southern line is a break between Industrial Zoning to the north and Commercial Zoning to the south.

D. Carlson stated his first thought was obvious rejection because there is nothing that the applicant has provided that satisfies the strict criteria of the variance, however, he stated he felt differently after reading the ordinance; he is not sure the ordinance is that cut and dried regarding what is required. He stated there are parts of the ordinance that allow for the parking studies that were mentioned previously which would be specifically designed for exactly the argument that is being raised, that there is very transient cliental.

A motion was made by J. Bunker and seconded by B. Maccaux to approve this variance as long as there was no overnight parking in front of the units.

P. Neumeyer asked the Board if they wanted to clarify this with the applicant as there is nothing in the code to prevent overnight parking on private property. J. Schmidt asked if this included someone actually parking in one of the four parking stalls that are deemed parking stalls. J. Bunker stated it would be so your tenants could not park overnight in front of their unit. D. Carlson explained the Board is allowed to put waivers on the variances and M. Cropsey stated he understood.

Motion carried.

D. Carlson stated he did not want the Board to become too cavalier with this but at the same time he does not want the Board to become so restrictive that reasonable requests are not granted. J. Bunker stated this is common sense. He stated he understood what they are trying to do with the ordinance and if it was a place where you could stay and you owned it like a condo unit, yes; then he could understand one parking stall per unit. He stated he did not feel the City thought far enough ahead when writing this code; these are rentals and it doesn't make sense to have a parking spot for every rental unit when they are just going to come and go. With every code, somewhere it is going to apply that it is not going to apply to this. He stated he feels, the Board, with common sense, need to say yes. He stated his only other

concern was that there was no overnight parking and he added he felt if someone would park there it would generate more cars parking and that would cause the problem. D. Carlson stated that is what the ordinance is designed to prevent. D. Carlson added he wanted the Board to not get carried away one way or the other. He stated he did not want the Board to assume they can change any ordinance because someone has a reasonable request. In this case, there was reasonable doubt whether that was an absolute or a guide number.

R. Marx asked if this could be brought up and reviewed sometime in the future. This obviously is not going to be the last storage unit built in the City of Green Bay. It would be nice to pass this on to the Plan Commission or whoever comes up with this.

P. Neumeyer stated it can be passed on or the Board can make an interpretation as well. The problem is that one requirement doesn't always fit all situations.

D. Carlson stated he feels for the people writing the ordinances; to a certain extent there is the assumption that there are people like the Board or in case of the legal system, judges; that take care of these things. He felt the Board should realize they are in a difficult position. The Board can be really hard-nosed or go too far the other way.

J. Bunker stated there is a problem that he sees everyday; the biggest thing that comes before the Board is concrete. J. Bunker stated if this would happen more than once a year, then it should be addressed.

A motion was made by J. Bunker and seconded by B. Maccaux to adjourn the meeting at 6:18 am. Motion carried.

:jvr